

FILED

FEB 16 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOEL CORONA-PONCE,

Defendant - Appellant.

No. 04-50355

D.C. No. CR-03-00517-MMM-3

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
Margaret M. Morrow, District Judge, Presiding

Submitted February 13, 2006^{**}

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

Joel Corona-Ponce appeals from the 120-month sentence imposed following his guilty-plea conviction for conspiracy and possession of methamphetamine with

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

intent to distribute in violation of 21 U.S.C. §§ 841(a)(1) and 846. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Although Corona-Ponce's sentence was imposed at a time when the Sentencing Guidelines were mandatory, the district court imposed the mandatory minimum under the statute, which was neither driven by the Guidelines nor exceeded the maximum authorized by the facts established by a plea of guilty. *See United States v. Booker*, 543 U.S. 220, 125 S. Ct. 738, 756 (2005); *United States v. Dare*, 425 F.3d 634, 643 (9th Cir. 2005).

AFFIRMED.